IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Writ Petition No. 6640 of 2004

Arvind D Agre.....petitioner

vs

The Chairman Grievance Cell

Committee and ors.....respondents

Mr.Kiran Kandpille for Petitioner

Mr.Girish Kulkarni for respondent nos.l and 2

Mr V.D.Borwankar for respondent nos. 3 and 4

Mr. P.I.Khemani AGP for State

CORAM;A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated 22.ll.2004

P C:

Rule. Respondents waive service.

l. By consent of the parties rule is made returnable forthwith.

2. We have heard learned counsel for the parties. The petitioner herein was a teacher in respondent no.3 college. He was superannuated as a Reader in Chemistry on lst July l999. Only grievance of the petitioner is that his dues by way of encashment of learned leave have not been paid to him. He is seeking a direction to the respondents to pay the amount of earned leave of l80 days standing to the credit of the petitioner in accordance with the University statute no 424(o) read with section 42 of the Poona University Act, l974.

3. The right of the petitioner of encashment of learned leave standing to his credit on the date of superannuation is not disputed, in view of the decision of the Division Bench of this court in Writ Petition No.4l66 of 2000 (Dr. N C Gujarathi vs The Chairman, Grievance Cell Committee, Poona University and ors, decided on 2lst June 200l). Only question that remains is whether the liability has to be discharged by the Government or by the management of the college or in the alternative the management can claim reimbursement of the liability from Government. It has been repeatedly held by

the Apex Court that even in the case of aided colleges,the primary liability to pay salary, allowances to the employees is that of the management.

4. In these circumstances, we direct the respondent no. 3 to pay to the petitioner the amount payable to the petitioner on account of encashment of earned leave standing at his credit within two months from today. We however, make it clear that the respondent no. 3 will be at liberty to claim reimbursement from the State Government of the said amount. In the event such an reimbursement application is made by the respondent no.3 to the State Government,the State will deal with the same in accordance with law.

5. With the above directions the petition is disposed of . C.C.expedited.